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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,258	02/02/2001	Adri Marinus Blomme	MBHB00-1156	5033
20306	7590	12/23/2003	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF			NERBUN, PETER P	
300 SOUTH WACKER DRIVE			ART UNIT	
SUITE 3200			PAPER NUMBER	
CHICAGO, IL 60606			3765	12

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,258

Applicant(s)

BLOMME, ADRI MARINUS

Examiner

Peter P Nerbun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 27-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) 30-38 and 40 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☒ Claim(s) 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 1-13 are allowed.

Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 29, lines 1-3 applicant recites that "the internal annular member (10) lies on an outer wall of the tubular body (40)...". This recitation is unclear in view of the disclosure since page 19, lines 10-12 of the specification states that the internal annular member (10) "lies against an inner wall of the prosthesis 40". Clarification of this inconsistency is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27-29, insofar as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Wilk et al, newly cited. The patent to Wilk et al discloses a vascular prosthesis comprising a flexible tubular body 110, Fig. 5 of which at least a first end 120 is intended to be connected to a vessel VA', characterized in that the tubular body is provided on at least the first end with an internal annular member 112 that, at least in use, is firmly connected to an extreme end of the prosthesis (by tie member 116). The internal annular member 112 must define a sealing surface extending substantially continuously over an annular circumference thereof since blood must not leak between the slit that is cut in vessel VA' and the interior of the vessel. Claim 27 recites the internal annular member as claimed in claim 1. In this regard it is noted that claim 1

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merely recites that "at least one of the two annular members is provided with suturing means". Thus it is not necessary for the internal annular member recited in claim 1 to be provided with suturing means. Rather the external annular member which is not a part of claim 27 could be provided with the suturing means. With regard to claim 28 it is noted that the word "on" is defined as "a function word to indicate position in close proximity with". In claim 28, lines 4-6 applicant recites a clamping ring that lies clampingly "on" an outer wall of the tubular body. The clamping ring 116 of Wilk et al lies clampingly on an outer wall of tubular body 110 since ring 116 is located in a position that is in close proximity with the outer wall of the tubular body 110.

Claims 30-38 and 40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.

Applicant's arguments with respect to claims 1-5,8,10-13,27,19,30/27,30/29, and 40 have been considered but are moot in view of the new ground(s) of rejection.

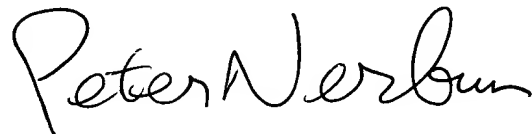
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P Nerbun whose telephone number is 703-308-0955. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Peter Nerbun
December 17, 2003

A handwritten signature in black ink that reads "Peter Nerbun". The signature is written in a cursive style with a large, looped "P" and a trailing flourish.

Peter Nerbun
Primary Examiner